

SUPPORT FOR THE AMENDMENT

Support for claims 24 and 25 is found on page 3, lines 9 of the specification. Support for claims 26-27 is found on page 3, lines 15 and 16 of the specification. No new matter would be added to this application by entry of this amendment. No new issues would be raised before the examiner as isopropyl palmitate as the oil agent is recited in claim 16 and benzyloxyethanol and propylene glycol are claimed as the solvents of claim 22, each claim having been considered and examined by the examiner. Entry of applicants' amendment and full consideration thereof at this stage of prosecution is respectfully requested.

Upon entry of this amendment, claims 1-5 and 11-27 will now be active in this application.

REQUEST FOR RECONSIDERATION

The present invention is directed to a method of treating hair.

Applicants wish to thank examiner's Gollamudi and Hartley for the helpful and courteous discussion held with their U.S. representative on March 9, 2004. At that time, Applicants' U.S. representative argued that the dye in the primary reference was inconsistent with basic and novel features of the claimed hair treatment method and thereof claims limited to "consisting essentially of" would distinguish over the primary reference. The following is intended to expand upon the discussion with the examiners.

The rejections of Claims 1, 7-8, 11, 13, 15-16, 20-21 and 23 under 35 U.S.C. § 102(b) over Reid et al. U.S. 5,972,987 as well as Claims 1-5, 7-8 and 11-23 under 35 U.S.C. § 103(a) over Bergmann et al. U.S. 6,274,128 in view of Hulett et al. U.S. 4,459,471 are respectfully traversed.

None of the relied upon references discloses or suggests a hair treatment composition consisting essentially of at least one oil agent and a solvent, which is applied to dry hair and washed away.

Reid et al is directed to a method of removing lice eggs from infested hair by applying colored dyes which have a preferential adsorption for the chitin surface of a nit or the binding cement (column 4, lines 6-9). In order to facilitate distribution of the dye throughout the hair, the dye containing composition may also contain a lubricant, such as "Silwets, lanolin or mineral oil, to facilitate movement of the comb through the subject's hair (column 7, lines 1-4). Example 1, illustrates a composition containing Eosin Y as a dye, ethanol as a solvent and isopropyl myristate as a lubricant (column 8, lines 25-38). Accordingly, the reference describes a method in which a dye is delivered to the hair, in order to assist in the removal of lice eggs, wherein a lubricant composition may also be used. There is no suggestion of treating hair with a composition consisting essentially of at least one oil agent and a solvent.

In contrast, the present invention is directed to a method of treating hair comprising applying to dry hair, a hair treatment composition consisting essentially of 0.5-25 % by weight of at least one oil agent and a solvent, the composition having a water content of 0-15% by weight. Applicants note that the claims have been amended to recite that the composition "consists essentially of" 0.5 to 25 % by weight of oil agent, and solvent. Such a limitation would exclude the presence of the brightly colored dye of the cited reference as the presence of such a dye is inconsistent with the basic and novel characteristics of the claimed invention in which hair is being treated. The present method is a method of treating hair while the cited reference is directed to a method of facilitating the removal of lice. The presence of a dye for visualization of lice products is completely inconsistent with a method of treating hair as inclusion of a dye to facilitate visualization of lice products is not intended to treat hair, but rather to treat the surface of lice products. As the cited prior art fails to

disclose or suggest a composition consisting essentially of 0.5 to 25 % by weight of an oil agent and a solvent, the claimed invention clearly is not anticipated by the cited references.

Bergmann et al. fails to disclose or suggest the claimed invention in which a composition is applied to dry hair, followed by washing away.

Bergmann et al. describes a self-warming hair conditioning composition (column 1, lines 5-10). The method of use is described as follows:

Compositions of the invention are used in a manner known for **leave-in and wash-out** conditioners. Namely, the hair is **wet** and then conditioner or conditioning shampoo is applied to the hair.

If the conditioner is a **leave-in** conditioner, it can be applied to **wet or dry hair**. If applied to dry hair, then water is added after such application. If the conditioner is a wash-out conditioner, the hair is the rinsed after application.

The composition is used in a manner known for “leave-in” and “wash-out” conditioners, in so far as hair is **wet**, then the conditioner is applied to the hair (column 7, lines 9-12). This passage simply does **not** suggest applying the composition to **dry** hair.

The reference further describes for a “leave-in conditioner” that he composition may be applied to wet or dry hair (column 7, lines13-14). However as a “leave-in conditioner” there is no suggestion to wash the hair treatment composition away. As such, there is no suggestion in the cited reference to 1) apply to dry hair; and 2) wash the treatment composition away.

In contrast, the present invention is directed to a method in which a hair treatment composition is applied to dry hair, then washed away. As there is no suggestion in the cited reference to perform both steps of applying to dry hair, then washing away, the claimed invention is clearly not rendered obvious by the cited reference.

The secondary reference of Hulett et al. U.S. 4,459,471 fails to cure the basic deficiencies of the primary reference. The secondary reference has been cited for describing an electric heating cap for applying heat to the hair. This disclosure does not provide any

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motivation to deviate from the described method of Bergmann et al and accordingly, there is no suggestion to perform both steps of applying to dry hair, then washing away. Moreover, since Bergmann is directed to a self-warming composition, there is no motivation to supply an external heat source, such as from an electrical heating cap, since, the basic motivation of Bergmann et al is to be self heating. There simply is no motivation to destroy the basic an novel feature of the primary reference's "self heating" feature. Withdrawal of the rejection under 35 U.S.C. § 103(a) is respectfully requested.

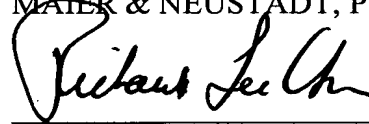
The rejection of claims 7-8 under 35 U.S.C. §102(b) over Sturla is respectfully traversed.

Applicants have now cancelled claims 7-8, without prejudice to their further prosecution. Withdrawal of this ground of rejection is respectfully requested.

Applicants submit that this application is now in condition for allowance and early notification of such action is earnestly solicited.

Respectfully submitted,

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